

STATE OF ALASKA
before, THE DEPARTMENT OF LABOR
LABOR RELATIONS AGENCY

MICHAEL JAMES CORDOVA, MEMBER)
IN GOOD STANDING - IBEW)
)
Petitioner,)
)
and) CASE NO. ULP 86-004
)
INTERNATIONAL BROTHERHOOD OF)
ELECTRICAL WORKERS - LOCAL)
1547,)
)
Respondent.)
_____)

DECISION AND ORDER 87-2

On October 10, 1986, Michael James Cordova filed an Unfair Labor Practice charge against the International Brotherhood of Electrical Workers (IBEW), Local 1547. Mr. Cordova alleged that IBEW violated AS 23.40.110(c) (1) (A) by restraining him in the exercise of his rights under AS 23.40.080. More specifically, IBEW failed to follow its "Administrative Rules for Referral Procedure" in dispatching applicants to the Fairbanks Municipal Utilities System (FMUS).

IBEW Administrative Rule Number 19 states that:

(A) Permanent calls for utility will go off the Book 1D first, and then will continue to the normal call system, unless otherwise spelled out in the calling utilities contract language. A call will be considered permanent if the applicant can become permanent, i.e. if the applicant has the ability to bid from a temporary position to a permanent position. All hours will count for Book 1D.

(B) Temporary calls to a utility, i.e. jobs that cannot become permanent, will come off Book 1A or B first. All hours will count towards Book 1A or B. (Emphasis added)

Article 12.1 of the Working Agreement between FMUS and IBEW

identifies the two classifications of employees recognized in the Agreement as "regular" and "temporary" . Article 12.1(A) (3) states:

Temporary employees shall have the right to bid on regular positions which have been posted, after the position has been closed to all regular employees of the System and before the System places a call to the Union. (Emphasis added)

However, it has been the practice of IBEW to dispatch all permanent calls (for regular positions) from the Book 1D register of applicants, and all temporary calls (for temporary positions) from the Book 1B register. This practice is clearly contrary to and in violation of IBEW's "Administrative Rules for Referral Procedure" as all temporary employees at FMUS have the ability to bid on a permanent (or regular) position.

The Agency, having found probable cause existed to support the instant charge, entered into informal conference and conciliation with the parties. Both parties agreed to waive the 14 day limit for informal resolutions. In considering which acts/actions in the instant case might constitute unfair labor practices, the Agency looked to the National Labor Relations Board. 2AAC 10.250(c). Section 10(b) of the Labor Management Relations Act specifies that no complaint will be accepted/issued on a matter that occurred more than 6 months prior to the filing of a charge. While APERA is silent regarding the time limit in which an Unfair Labor Practice Charge may be filed, the Agency gives particular weight to the NLRB 6 month limit when considering the extent of, or remedies to, unfair labor practices.

A review was made to all FMUS hires and IBEW dispatches from April 19, 1986 to present. No violations of the Agreement and/or IBEW Administrative Rules were found to have occurred. This was apparently due to a lack of work rather than by design, as IBEW dispatch policy was, throughout htis period, as outlined above. Neither the petitioner, nor any other applicant suffered harm from IBEW's actual dispatch practice. The Agency finds that the intent of APERA would not be served by looking beyond this 6 month period.

As a result of informal conference and conciliation, IBEW has altered its dispatch procedures so that all calls to FMUS are made from the Book 1D register. Therefore, the Agency finds that formal proceedings at this juncture would not effectuate the meaning of APERA. The charge filed by Mr. Cordova has been resolved by IBEW's change in dispatch procedures/practice.

ORDER

As a matter of law, it is hereby ordered that the petition is DISMISSED.

Signed this 3rd day of February, 1987

THOMAS E. STUART, JR., CHAIRMAN
LABOR RELATIONS AGENCY

DONALD R. WILSON, MEMBER

DENNIS GEARY, MEMBER

[Seal Affixed and Signatures on File]

APPEAL PROCEDURES

An Agency order may be appealed through proceedings in Superior Court brought by a party in interest against the Agency and all other parties to the proceedings before the Agency, as provided in the Rules of Appellate Procedure of the State of Alaska.

An Agency order becomes effective when filed in the office of the Agency, and unless proceedings to appeal it are instituted, it becomes final on the 31st day after it is filed.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the Decision and Order in the matter of Michael James Cordova, Petitioner and the International Brotherhood of Electrical Workers - Local 1547, Respondent, Case No. ULP 86-004, dated and filed in the office of the Labor Relations Agency in Anchorage, Alaska, this 24th day of February, 1987.

Clerk

[Signature On File]